

**Notice of Allowability**

Application No.

09/686,831

Examiner

KIEU-OANH T BUI

Applicant(s)

ESHELMAN ET AL.

Art Unit

2611

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Appeal Brief filed on 09/23/2004.
2. ☒ The allowed claim(s) is/are 1-8, 10-13, 15, 17-19, 21, 23.
3. ☒ The drawings filed on 01/17/2001 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

2. Authorization for this examiner's amendment was given in a telephone interview with Ralph F. Hoppin on Monday 11/15/04.

The following amendment was presented to the Examiner as a Draft proposal, but the Attorney authorizes the Examiner to make it officially entered if it is acceptable to the Examiner in condition for allowance instead of waiting for the response on the Appeal Brief (dated 09/21/04). Based on recent updated searches and the arguments from the Applicants, the Examiner agrees to enter this amendment as an official amendment and withdraw the previous Final Office action.

Please enter the following amendment and this amendment supersedes other previous pending amended claims.

Please cancel claims 9, 14, 16, 20, and 22.

Please amend claims 1, 10, 15, 17, 18, 21, and 23.

What is claimed is:

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1. (Twice amended) A method of providing an animated viewing companion on a display while a viewer is watching a program, the method comprising the steps of:

displaying a video program on the display;

generating an animated character on a portion of the display as the animated viewing companion;

monitoring at least one signal corresponding to the program being watched;

determining, based on the monitoring performed in the monitoring step, when a first predetermined event has occurred;

wherein the first predetermined event comprises at least one of an audio and video event in the program being watched; and

controlling the animated character based on the determination made in the determining step so that the animated character responds to the at least one of an audio and video event in the program being watched by transitioning from a normal TV-watching animation to an animation wherein its face faces the viewer.

2. (Original) The method of claim 1, further comprising the step of:

determining, based on the monitoring performed in the monitoring step, when a second predetermined event has occurred,

wherein, in the controlling step, control of the animated character is also based on the determination that the second predetermined event has occurred.

3. (Original) The method of claim 1, wherein, in the displaying step, the video program is displayed in a first predetermined region of the display, and wherein, in the generating step, the animated character is generated in a second predetermined region of the display.

4. (Original) The method of claim 1, wherein the at least one signal monitored in the monitoring step comprises an audio signal.

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5. (Original) The method of claim 1, wherein the at least one signal monitored in the monitoring step comprises an audio signal and a video signal.

6. (Original) The method of claim 1, wherein the at least one signal monitored in the monitoring step comprises a video signal.

7. (Original) The method of claim 1, further comprising the steps of:  
accepting at least one input from the user; and  
controlling the animated character based on the inputs accepted in the accepting step.

8. (Original) The method of claim 1, wherein a behavior of the animated character depends on a cumulative history of inputs accepted from the user.

Cancel claim 9.

10. (Twice amended) A method of providing an animated viewing companion on a display while a viewer is watching a program, the program having an audio component and a synchronized video component, the method comprising the steps of:

displaying the video component of the program on the display;  
generating an animated character on a portion of the display as the animated viewing companion;  
determining, based on a signal corresponding to at least one of the audio and video components in the program being watched, when a first predetermined event has occurred; and  
controlling the animated character based on the determination made in the determining step so that the animated character responds to the at least one of an audio and video event in the program being watched by transitioning from a normal TV-watching animation to an animation wherein its face faces the viewer.

11 (Original) The method of claim 10, wherein the signal corresponding to the audio component of the program is an analog signal.

12. (Original) The method of claim 10, wherein the first predetermined audio event comprises a sudden loud sound, and

wherein, based on the determination of when the first predetermined audio event has occurred, the animated character is controlled, in the controlling step, to act surprised.

13. (Original) The method of claim 10, wherein the first predetermined audio event comprises a laughing sound, and

wherein, based on the determination of when the first predetermined audio event has occurred, the animated character is controlled, in the controlling step, to laugh.

Cancel claim 14

15. (Twice amended) A method of providing an animated character on a display while a viewer interfaces with a program recommendation system, the method comprising the steps of:

generating an animated character on the display as an animated viewing companion;

accepting a selection of a program from a user;

comparing the selection accepted in the accepting step to a stored profile, wherein the stored profile is based on previously made program selections; and

controlling the animated character based on the comparison made in the comparing step to transition from a normal TV-watching animation to an animation wherein its face faces the viewer and expresses an approval response when it is determined, in the determining step, that the selection is consistent with the stored profile.

Cancel claim 16.

17. (Amended) The method of claim ~~15~~6, wherein, a degree of consistency of the selection with the stored profile is determined in the determining step; and

wherein, in the controlling step, the animated character is controlled to generate one of a plurality of approval responses indicating different degrees of approval depending on the degree of consistency of the selection with the stored profile.

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18. (Amended) The method of claim ~~15~~16, wherein the comparing step comprises the step of determining whether the selection accepted in the accepting step is inconsistent with the stored profile; and

wherein, in the controlling step, the animated character is controlled to generate a disapproval response when it is determined, in the determining step, that the selection is inconsistent with the stored profile.

19. (Original) The method of claim 15, wherein the comparing step comprises the step of determining whether the selection accepted in the accepting step is inconsistent with the stored profile; and

wherein, in the controlling step, the animated character is controlled to generate a disapproval response when it is determined, in the determining step, that the selection is inconsistent with the stored profile.

Cancel claim 20

21. (Amended) The method of claim ~~12~~20, wherein:  
the ~~plurality of other animations~~animation wherein the face faces the viewer comprises one of ~~includes~~ a frightened animation, a happy animation, and a laughing animation.

Cancel claim 22

23. (Amended) The method of claim ~~10~~22, wherein:  
the animation wherein the face faces the viewer comprises one of ~~plurality of other animations~~ ~~includes~~ a frightened animation, a happy animation, and a laughing animation.

**DETAILED ACTION**

***Response to Amendment***

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive (with the recent Examiner's amendment herein) and, therefore, the finality of that action is withdrawn.
2. Claims 9, 14, 16, 20 and 22 were canceled (as shown in the amendment).

***Allowable Subject Matter***

3. Claims 1-8, 10-13, 15, 17-19, 21, and 23 are allowed.

***Reasons for Allowance***

4. The following is an examiner's statement of reasons for allowance:

Regarding claim 1 and 10, the prior art of record issued to Dureau, Best and Williams fails to either alone or combine to teach or suggest a method or providing an animated viewing companion on a display while a viewer is watching a program, wherein the animated viewing companion is generated by the system as the animated viewing companion on a display to the user/viewer; in other words, monitoring means and determining means can detect and determine at least one signal corresponding to the program being watched (by the user/viewer), based at least on one of an audio and video event in the program being watched, then the animated viewing companion on the display screen is controlled to response to the at least one of an audio and video event in the program being watched by transitioning from a normal TV watching animation to an animation where its face faces the viewer as cited in claim 1, and further with the synchronization of audio and video components.

Regarding claim 15, the prior art of record issued to Dureau, Best and Williams fails to either alone or combine to teach or suggest a method further includes a comparison step between a selected program and a stored profile that is based on previously made program selections, and the animated viewing companion displays a transition from a normal TV watching animation to an animation where its face faces the viewer and further expresses an approval response when it is determined that the selection is consistent with the stored profile as cited in claim 15.

Dureau simply refers to a genie and the genie shows his reaction of healthy or sick on whether the user responses/ interactivity or spends time watching the program, but Dureau does not concern over the animated genie's reaction to the audio and video events of programs being watched. Williams addresses the animated character reacts to the audio and video events, but this is part of a program being watched, and not an animated viewing companion, meaning, showing a similar joy or a happiness to the viewer/user at the viewing time as the viewer laughs or reacts to the viewing program; furthermore, based on the user's stored profile that is based on previously made program selections. Meanwhile, Best simply refers to a talking video game; and the video game with animated characters structure is different from the animated viewing companion on a television screen in response to the audio and video events of the program being watched.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."



***Conclusion***

**5. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306, (for Technology Center 2600 only)

*Hand-delivered responses should be brought to Crystal Park I.F. 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).*

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Krista Kieu-Oanh Bui whose telephone number is (703) 305-0095. The examiner can normally be reached on Monday-Friday from 9:00 AM to 6:30 PM, with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant, can be reached on (703) 305-4755.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 306-0377.

Krista Bui  
Art Unit 2611  
December 6, 2004



**KRISTA BUI  
PATENT EXAMINER**